In the High Court for the States of Punjab and Haryana, at Chandigarh.

R.S.A.No. 3142 of 2006 (O&M)
Decided on January 11,2007.

Mahesh Kumar ---- Appellant

vs.

Hem Lata ---- Respondent.

Present: Mr.S.S.Khurana,Advocate, for the appellant

Pritam Pal,J: (Oral)

This appeal, by Mahesh Kumar, appellant/defendant, is directed against judgments and decrees dated October 25,2004 and January 24,2006, passed by learned Addl.Civil Judge (Senior Division), and Learned Addl. District Judge, Rewari, respectively, whereby a suit for mandatory injunction with consequential relief of permanent injunction, filed by the plaintiff-respondent in respect of site shown in the site plan Ex. PW1/A, was decreed in the following manner:-

> "It is ordered that the suit of the plaintiff succeeds and the same is hereby decreed with costs. Accordingly, a decree for mandatory injunction directing the defendant to restore the joint POLI in question in its original condition by way of demolishing the wall shown with letters ABC as shown in the plaintiff's site plan Ex. PW1/A at his own responsibility and expenses within one month from the date of this order, is hereby

passed in favour of the plaintiff and against the defendant failing which the plaintiff is held entitled to do the needful at the risk, responsibility and expenses of the defendant. As a consequential, the defendant is restrained from raising any obstruction or construction over CHABUTRA, SEHANCHI and POLI by way of decree of permanent injunction. However, for the removal of doubts, it is made clear that the defendant would keep on using the staircase marked with letter X shown to be existing towards the eastern side of the POLI abutting to the Kothari and Tibari of the defendant because the user of the said staircase by the defendant to have an access to the roof of the purchased property with the stipulation that the defendant would have no right to use the stair case existing in the property of the plaintiff as shown in red colour in her site plan would be convenient and beneficial to both the parties for the proper and effective use of their respective properties".

Appeal filed against the said judgment and decree by the appellant/defendant, was also dismissed. Both the Courts below have given concurrent findings regarding the factual state of affairs of the suit property, as pleaded by the respondent/plaintiff.

Learned counsel for the appellant could not make out any substantial question of law involved in this appeal. Not only that,

learned counsel also could not point out any perversity or infirmity in the findings returned on material issues by the Courts below.

Hence, this appeal is hereby dismissed in *limine*.

January 11,2007 (Pritam Pal)
RR Judge